

**Stricken language would be deleted from and underlined language would be added to the law as it existed
prior to this session of the General Assembly.
Act 428 of the Regular Session**

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

SENATE BILL 404

5 By: Senator Bookout
6 By: Representative Hardwick
7

For An Act To Be Entitled

AN ACT TO CLARIFY THE LICENSURE AND INTERNSHIP
PROCESS FOR THE ARKANSAS BOARD OF HEARING
INSTRUMENT DISPENSERS; TO INCREASE FEES FOR
HEARING INSTRUMENT DISPENSER LICENSES; AND FOR
OTHER PURPOSES.

Subtitle

AN ACT TO CLARIFY THE LICENSURE AND
INTERNSHIP PROCESS FOR THE ARKANSAS
BOARD OF HEARING INSTRUMENT DISPENSERS
AND TO INCREASE FEES FOR HEARING
INSTRUMENT DISPENSER LICENSES.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26 SECTION 1. Arkansas Code § 17-84-101 is amended to read as follows:
27 17-84-101. Definitions.

28 As used in this chapter, ~~unless the context otherwise requires:~~

29 (1) "Board" means the Arkansas Board of Hearing Instrument
30 Dispensers;

31 (2) "Current" means valid, effective, unexpired, or unsuspended
32 and unrevoked with reference to a license or internship;

33 (3) "Established place of business" means a place of business at
34 a permanent address in the State of Arkansas or, if outside the state, within
35 seventy-five (75) miles of the Arkansas state line, which is open to the



1 public during normal business hours at least ~~thirty-five (35)~~ thirty-two (32)
2 hours per week;

3 (4) "Hearing instrument" means any instrument or device worn in
4 or behind the ear designed for or represented as aiding, improving,
5 amplifying, or correcting human hearing and any parts, attachments, or
6 accessories of such an instrument or device;

7 (5) "In-office assembled hearing instrument" means an instrument
8 built by the hearing instrument dispenser or under his or her supervision
9 from components, including a premanufactured faceplate and a shell made by
10 the dispenser or made under his or her supervision;

11 (6) "License" and "internship" mean, respectively, license as
12 provided for in § 17-84-306 and internship as provided for in § 17-84-304;

13 (7) "Licensed" means holding a current license;

14 (8) "Practice of dispensing hearing instruments" means
15 conducting and interpreting hearing tests for purposes of identifying the
16 type and degree of hearing loss and making proper recommendations based on
17 those results, selecting suitable hearing instruments, making earmolds or ear
18 impressions, and providing appropriate counseling pertaining to the selling,
19 renting, leasing, pricing, delivery, and warranty of hearing instruments;

20 (9) "Sponsor" means a licensed person who trains and directly
21 supervises an intern; and

22 (10) "Unethical conduct" includes, but is not limited to:

23 (A) Obtaining any fee or making any sale by fraud or
24 misrepresentation;

25 (B) Employing directly or indirectly any unlicensed person
26 to perform any work covered by this chapter;

27 (C) Using or causing or promoting the use of any
28 advertising matter, promotional literature, testimonial, guarantee, warranty,
29 label, brand, insignia, or any other representation, however made, which is
30 misleading or untruthful;

31 (D) Advertising a particular model, type, or kind of
32 hearing instrument for sale when prospective purchasers responding to the
33 advertisement cannot purchase or are dissuaded from purchasing the advertised
34 model, type, or kind if the purpose of the advertisement is to obtain
35 prospects for the sale of a model, type, or kind other than that advertised;

36 (E) Falsely representing that the services or advice of a

1 person licensed to practice medicine will be used or made available in the
2 selection, fitting, adjustment, maintenance, or repair of hearing instruments
3 or using the words "doctor", "audiologist", or "clinic", or like words,
4 abbreviations, or symbols which suggest the medical profession when such use
5 is not accurate;

6 (F) Permitting another to use the holder's license or
7 internship certificate;

8 (G) In any manner making false representations concerning
9 a competitor or his or her products, business methods, selling prices,
10 values, credit terms, policies, services, reliability, ability to perform
11 contracts, credit standing, integrity, or morals;

12 (H) In any manner using, imitating, or simulating the
13 trademark, trade name, corporate name, brand, model name, or number or label
14 of any competitor, manufacturer, or product when it implies or represents a
15 relationship that does not exist;

16 (I) Obtaining information concerning the business of a
17 competitor by bribery of any employee or agent of the competitor, by the
18 impersonation of one in authority, or by any other unfair or deceptive means;
19 and

20 (J) Directly or indirectly giving or offering to give
21 anything of value to any person who advises others in a professional capacity
22 as an inducement to influence others to purchase products sold by a hearing
23 instrument dispenser or to refrain from dealing with a competitor.

24
25 SECTION 2. Arkansas Code § 17-84-201 is amended to read as follows:

26 17-84-201. Creation and composition.

27 (a) There is created the Arkansas Board of Hearing Instrument
28 Dispensers.

29 (b) The board shall be composed of eight (8) members appointed by the
30 Governor for terms of three (3) years as follows:

31 (1)(A) At least four (4) of the members shall be hearing
32 instrument dispensers licensed under this chapter who have held a valid
33 license for at least three (3) years.

34 (B) The Governor shall consider nominations from the
35 Arkansas Hearing Society ~~and the Arkansas Speech Language Hearing~~
36 ~~Association;~~

1 (2) At least one (1) member shall be a physician licensed to
2 practice medicine in Arkansas and specializing in otology or otolaryngology;

3 (3) At least one (1) member shall be an audiologist holding a
4 master's degree or doctoral degree in audiology from a recognized college or
5 university; and

6 (4) Two (2) members shall not be actively engaged in or retired
7 from the practice of dispensing hearing instruments. One (1) member shall
8 represent consumers, and one (1) member shall be sixty (60) years of age or
9 older. Both members shall be appointed from the state at large subject to
10 confirmation by the Senate and shall be full voting members but shall not
11 participate in the grading of examinations.

12 (c)(1) All terms shall expire on July 31 of the designated year.

13 (2) Each member shall serve for the term of his or her
14 appointment and until his or her successor has been appointed and qualified.

15 (3) No member shall serve more than ~~two (2)~~ three (3) terms
16 consecutively.

17 (d) In the event of a vacancy on the board, a new member shall be
18 appointed to serve out the unexpired term.

19 (e) The Governor may remove any member for cause.

20 ~~(f) Any board member who was appointed to a seven year term or to fill
21 a vacancy for the remainder of a seven year term shall not have his or her
22 term reduced to a three year term as provided for in subsection (b) of this
23 section.~~

24
25 SECTION 3. Arkansas Code § 17-84-203 is amended to read as follows:

26 17-84-203. Powers and duties.

27 The powers and duties of the Arkansas Board of Hearing Instrument
28 Dispensers are:

29 (1) To authorize all disbursements necessary to carry out the
30 provisions of this chapter and to receive and account for all fees;

31 (2) To furnish a list of study materials for applicants to use
32 in preparing for qualifying examinations;

33 (3) To prepare, supervise, and administer at least once each
34 year a qualifying examination based on nationally accepted norms to test the
35 knowledge and proficiency of applicants;

36 (4) To register, issue, and renew licenses and internships to

1 persons qualified under this chapter and to suspend, revoke, or refuse to
 2 renew licenses and internships pursuant to this chapter;

3 (5) To make rules and regulations not inconsistent with the laws
 4 of this state which are necessary for the enforcement and orderly
 5 administration of this chapter. However, no rule or regulation shall be
 6 promulgated which in any manner serves to restrict the number of licenses
 7 which may be issued in any city, town, or county of this state;

8 (6) To require the periodic inspection and calibration of
 9 audiometric testing equipment and tympanometers and to carry out the periodic
 10 inspection of facilities of persons who practice the fitting or selling of
 11 hearing instruments;

12 (7) To employ and retain the services of attorneys, accountants,
 13 and other necessary assistants in carrying out the provisions of this
 14 chapter;

15 (8) To require, if the board deems necessary, an applicant,
 16 dealer, or licensee to furnish a surety bond in an amount fixed by the board
 17 for the benefit of any person damaged as the result of a violation of this
 18 chapter. All requirements pertaining to the surety bond may be promulgated by
 19 regulation of the board;

20 (9) To set the following fees:

21 (A) An application fee not to exceed ~~one hundred fifty~~
 22 ~~dollars (\$150)~~ two hundred fifty dollars (\$250);

23 (B) An examination fee not to exceed ~~one hundred fifty~~
 24 ~~dollars (\$150)~~

25 (i) One hundred fifty dollars (\$150) for the written
 26 examination; and

27 (ii) Fifty dollars (\$50.00) each for the earmold
 28 practicum, the audiometric practicum, and the law and rules practicum;

29 (C) A reexamination fee not to exceed ~~one hundred fifty~~
 30 ~~dollars (\$150)~~ the fee under subdivision (9)(B) of this section for the
 31 portion of the examination being retaken;

32 (D) A permanent registration fee not to exceed ~~fifty~~
 33 ~~dollars (\$50.00)~~ seventy-five dollars (\$75.00);

34 (E) An annual license fee not to exceed ~~two hundred~~
 35 ~~dollars (\$200)~~ two hundred fifty dollars (\$250);

36 (F) A late penalty of ten percent (10%) of the annual

1 license fee if paid within thirty (30) days after expiration;

2 (G) A license reinstatement fee of one and one-half ~~(1.5)~~
 3 (1 1/2) times the annual license fee, if the renewal fee is not paid within
 4 the thirty-day grace period; ~~and~~

5 (H) An internship fee not to exceed ~~one hundred fifty~~
 6 ~~dollars (\$150)~~ two hundred fifty dollars (\$250);

7 (I) A fee for an endorsement to another state not to
 8 exceed twenty dollars (\$20.00);

9 (J) A license replacement fee or a duplicate license fee
 10 not to exceed twenty-five dollars (\$25.00);

11 (K) An insufficient funds fee not to exceed twenty-five
 12 dollars (\$25.00); and

13 (L) A continuing education unit approval fee not to exceed
 14 two hundred fifty dollars (\$250);

15 (10) To employ investigators, issue subpoenas, and perform all
 16 activities necessary to effectively investigate claims and pursue
 17 disciplinary action against licensees; and

18 (11) To establish the standards of practice for hearing
 19 instrument dispensers in the State of Arkansas.

20
 21 SECTION 4. Arkansas Code § 17-84-304 is amended to read as follows:

22 17-84-304. ~~Internship and applications—Qualifications of applicants~~
 23 Qualifications for licensure and internship.

24 ~~(a)(1) Prior to applying for a license, each applicant other than~~
 25 ~~those meeting the requirements of subdivisions (e)(2), (e)(3), (e)(4), or~~
 26 ~~(e)(5) of this section must complete a one-year employment internship during~~
 27 ~~which he or she is under the direct personal and physical supervision of a~~
 28 ~~sponsor who has continuously held in good standing for a period of not less~~
 29 ~~than three (3) years either a valid Arkansas hearing instrument dispenser's~~
 30 ~~license or a valid Arkansas audiology license.~~

31 ~~(2) An internship will be valid only if prior to beginning the~~
 32 ~~internship period the applicant:~~

33 ~~(A) Makes application for internship approval on forms~~
 34 ~~supplied by the Arkansas Board of Hearing Instrument Dispensers;~~

35 ~~(B) Pays the internship fees prescribed by the board~~
 36 ~~pursuant to this chapter; and~~

1 ~~(C) Shows to the satisfaction of the board that during the~~
 2 ~~period of the internship he or she will be under the direct personal and~~
 3 ~~physical supervision of a sponsor who has continuously held a valid Arkansas~~
 4 ~~hearing instrument dispenser's or Arkansas audiologist's license for a period~~
 5 ~~of not less than three (3) years.~~

6 ~~(3) A person participating in a valid internship program may~~
 7 ~~take the licensing examination administered by the board upon written~~
 8 ~~recommendation of his or her sponsor after successfully completing six (6)~~
 9 ~~months in the internship program. If the person satisfactorily passes the~~
 10 ~~examination, he or she may complete the one year internship program under the~~
 11 ~~oversight of the sponsor without personal and physical supervision.~~

12 ~~(b) It shall be a violation of this chapter for any person during the~~
 13 ~~course of his or her internship to practice the dispensing of hearing~~
 14 ~~instruments except under the direct personal and physical supervision of a~~
 15 ~~person who has continuously held a valid Arkansas hearing instrument~~
 16 ~~dispenser's or Arkansas audiologist's license for a period of not less than~~
 17 ~~three (3) years.~~

18 ~~(c) It shall be a violation of this chapter for any sponsor of an~~
 19 ~~intern to knowingly allow or require that intern to practice the dispensing~~
 20 ~~of hearing instruments except under the sponsor's direct personal and~~
 21 ~~physical supervision.~~

22 ~~(d) An applicant for a license under this chapter shall:~~

23 ~~(1) Submit a written application and request for examination in~~
 24 ~~the form and within the time prescribed by the board;~~

25 ~~(2) Pay an application and examination fee as prescribed by the~~
 26 ~~board, pursuant to this chapter; and~~

27 ~~(3) Show to the satisfaction of the board that the applicant:~~

28 ~~(A) Is twenty (20) years of age or older;~~

29 ~~(B) Has an education equivalent to two (2) years of~~
 30 ~~accredited college level course work from a regionally accredited college or~~
 31 ~~university;~~

32 ~~(C) Is of good moral character; and~~

33 ~~(D) Has satisfactorily passed the examination in the form~~
 34 ~~and within the time prescribed by the board.~~

35 ~~(e) Prior to applying for a license under this chapter, an applicant~~
 36 ~~must:~~

1 ~~(1) Complete a one-year internship as provided for in this~~
 2 ~~section;~~

3 ~~(2) Hold National Board of Certified Hearing Instrument Sciences~~
 4 ~~certification;~~

5 ~~(3) Be registered as a hearing instrument dispenser in good~~
 6 ~~standing in another state whose licensing requirements meet or exceed the~~
 7 ~~licensing requirements of the State of Arkansas at the time of his or her~~
 8 ~~application;~~

9 ~~(4) Be a graduate of an American Conference of Audioprosthology~~
 10 ~~program; or~~

11 ~~(5) Hold an Associate of Applied Science degree in Hearing~~
 12 ~~Healthcare Practitioner or a similar degree from a regionally accredited~~
 13 ~~college or university.~~

14 (a) An applicant for a license or an internship shall:

15 (1) Submit an application on the form and within the time
 16 prescribed by the Arkansas Board of Hearing Instrument Dispensers;

17 (2) Pay an application fee in the amount prescribed by the
 18 board; and

19 (3) Show to the satisfaction of the board that he or she:

20 (A) Is twenty (20) years of age or older;

21 (B) Has an education equivalent of two (2) or more years
 22 of accredited college-level course work from a regionally accredited college
 23 or university; and

24 (C) Is of good moral character.

25 (b) An applicant who meets the qualifications set out in subsection
 26 (a) of this section shall meet at least one (1) of the following criteria:

27 (1) Complete a one-year employment internship during which he or
 28 she is under the direct personal and physical supervision of a sponsor who
 29 has continuously held in good standing for a period of not less than three
 30 (3) years either a valid Arkansas hearing instrument dispenser's license or a
 31 valid Arkansas audiology license;

32 (2) Hold a National Board of Certified Hearing Instrument
 33 Sciences Certificate;

34 (3) Be registered as a hearing instrument dispenser in good
 35 standing in another state whose licensing requirements meet or exceed the
 36 licensing requirements of the State of Arkansas at the time of his or her

1 application;

2 (4) Be a graduate of an American Conference of Audioprosthology
3 program; or

4 (5) Hold an Associate of Applied Science degree in Hearing
5 Healthcare Practitioner or a similar degree from a regionally accredited
6 college or university.

7 (c) Before the beginning of the internship period, the applicant
8 shall:

9 (1) Receive board approval of the application and training
10 schedule; and

11 (2) Pay the internship fee prescribed by the board under this
12 chapter.

13 (d)(1) A person participating in a valid internship program may take
14 the licensing examination administered by the board upon written
15 recommendation of his or her sponsor after successfully completing six (6)
16 months in the internship program.

17 (2) If the person successfully passes the examination, he or she
18 may complete the one-year internship program under the oversight of the
19 sponsor without personal and physical supervision if he or she works out of
20 the same place of business as the sponsor.

21 (3) If the person fails the examination, he or she shall
22 complete the full one-year internship before reexamination.

23 (4) Any examination taken during an internship shall be
24 considered as one (1) of three (3) attempts to pass the examination allowed
25 under § 17-84-305(d).

26 (5) It is a violation of this chapter for any person during the
27 course of his or her internship to practice the dispensing of hearing
28 instruments except under:

29 (A) The direct personal and physical supervision of his or
30 her sponsor; or

31 (B) The conditions set out in this subdivision (d).

32
33 SECTION 5. Arkansas Code § 17-84-305(b), concerning the contents for
34 examinations given by the Arkansas Board of Hearing Instrument Dispensers, is
35 amended to read as follows:

36 (b) The examination may be written or practical, or both, and shall

1 consist of: ~~(1) Tests~~ tests of knowledge in the following areas as they
2 pertain to the fitting of hearing instruments:

3 ~~(A)(1)~~ Basic physics of sound;

4 ~~(B)(2)~~ The human hearing mechanism, including the science of
5 hearing and the causes and rehabilitation of abnormal hearing and hearing
6 disorders;

7 ~~(C)(3)~~ Structure and function of hearing instruments;

8 ~~(D)(4)~~ Pure tone audiometry, including air conduction testing
9 and bone conduction testing;

10 ~~(E)(5)~~ Live voice or recorded voice speech audiometry, including
11 speech reception threshold testing and speech discrimination testing;

12 ~~(F)(6)~~ Effective masking;

13 ~~(G)(7)~~ Recording and evaluation of audiograms and speech
14 audiometry to determine hearing instrument candidacy;

15 ~~(H)(8)~~ Selection and adaptation of hearing instruments; ~~and~~

16 ~~(I)(9)~~ Taking earmold impressions; ~~and~~

17 (10) Tympanometry; and

18 ~~(2)(11)~~ Testing of other knowledge and skills as may be required
19 to determine an applicant's ability and suitability for the practice of
20 dispensing hearing instruments to the public.

21
22 SECTION 6. Arkansas Code § 17-84-305(d), concerning persons who pass
23 the examination given by the Arkansas Board of Hearing Instrument Dispensers,
24 is amended to read as follows:

25 (d)(1) Applicants who fail to pass the required examination may retake
26 the examination by paying a reexamination fee, as prescribed by the board
27 pursuant to this chapter, for each additional examination taken.

28 (2) After three (3) failed attempts to pass the examination, the
29 applicant ~~must~~ shall complete an internship or repeat the internship
30 described in § 17-84-304.

31
32 SECTION 7. Arkansas Code § 17-84-306(d)(2), concerning issuance and
33 renewal of licenses, is amended to read as follows:

34 (2) The board shall require that
35 all applicants seeking renewal of their licenses shall present written
36 evidence of annual calibration of all audiometers and tympanometers to

1 current national standards. APPROVED: 3/22/2007